

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

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| 4 | ePLUS, INC., | : | |
| 5 | Plaintiff, | : | |
| 6 | v. | : | Civil Action |
| 7 | LAWSON SOFTWARE, INC., | : | No. 3:09CV620 |
| 8 | Defendant. | : | January 6, 2011 |
| 9 | --- | : | |

COMPLETE TRANSCRIPT OF **JURY TRIAL**
BEFORE THE HONORABLE ROBERT E. PAYNE
UNITED STATES DISTRICT JUDGE, AND A JURY

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1 (The proceedings in this matter commenced at
2 9:20 a.m.)

3 THE CLERK: Civil Action No. 3:09CV00620,
4 ePlus, Incorporated v. Lawson Software, Incorporated.
5 Mr. Scott L. Robertson, Mr. Craig T. Merritt,
6 Ms. Jennifer A. Albert, Mr. Michael T. Strapp, and Mr.
7 David M. Young represent the plaintiff.

8 Mr. Daniel W. McDaniel, Mr. Dabney J. Carr,
9 IV, Ms. Kirstin L. Stoll-DeBell, and Mr. William D.
10 Schultz represent the defendant.

11 Are counsel ready to proceed?

12 MR. ROBERTSON: Yes, Your Honor.

13 MR. McDONALD: Yes, Your Honor.

14 THE COURT: All right. Thank you very much.

15 I apologize for keeping you-all waiting this
16 morning. I had a mechanical malfunction that I needed
17 to attend to, and I'm not very mechanically oriented.

18 All right, Mr. Robertson.

19 Dr. Weaver, I remind you you're under the
20 same oath which you took yesterday.

21 THE WITNESS: Yes, Your Honor.

22 BY MR. ROBERTSON: (Continuing)

23 Q Good morning, Dr. Weaver.

24 A Good morning.

25 Q If we could have Plaintiff's Exhibit No. 1 back up

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1 on the screen again, the '683 patent, the cover page
2 here.

3 Dr. Weaver, the jurors have seen this exhibit now
4 several times and it's in their jury notebooks. This
5 is at tab 2. Can you just tell us what is the title
6 of the patent?

7 A Electronic Sourcing System and Method.

8 Q Has the Court defined the term "electronic
9 sourcing system"?

10 A Yes, it has.

11 Q What's your understanding as to what that
12 construction is?

13 A In the glossary of claim terms, the "electronic
14 sourcing system" has been defined by the Court to be
15 an electronic system for use by a prospective buyer to
16 locate and find items to purchase from sources,
17 suppliers or vendors.

18 Q What is your understanding of what a source is,
19 sir?

20 A A source would be a vendor or a manufacturer or a
21 distributor.

22 Q In the Court's construction of the claim term
23 "catalog" or "product catalog," how does the Court
24 define what a vendor can be?

25 A The vendor, in the Court's construction, a vendor

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1 would include suppliers, manufacturers, and
2 distributors.

3 Q Did you apply those terms when you conducted your
4 infringement analysis?

5 A Yes, I did.

6 Q Just what's your understanding at a high level
7 overview of what these patents are about, sir?

8 A The invention in the patents is to bring together
9 electronic technology so that we can have electronic
10 catalogs. They can be kept in a database. They can
11 be searched. Items could be found. Items could be
12 selected. Items could be put on a requisition, and
13 then the requisition could be turned into a purchase
14 order. And then depending on which claims we're
15 talking about, there's also the capability of checking
16 on whether an item is available in inventory and
17 taking one item and finding generally similar items
18 that you might want to substitute.

19 Q The title in the patent says, "Electronic Sourcing
20 System and Method." So what's your understanding of
21 the term "method" in the title of the patent?

22 A A method is a process.

23 Q What types of processes are we talking about in
24 this electronic sourcing system?

25 A So these are steps that a computer would follow.

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1 Q Now, the Court's instructed the jury that it is
2 claims that define the property right, and it is the
3 claims that need to be examined in order to determine
4 the infringement and not embodiments from the
5 specifications, so they understand that.

6 So could we just take a specific look at a claim,
7 for example, so we can start to understand the claim
8 language in context. And for that, I'd like to use
9 Claim Three of the '683 patent. We have a
10 demonstrative for that.

11 Now, Dr. Weaver, was this a demonstrative created
12 at your direction?

13 A Yes, it was.

14 Q Is it a fair and accurate depiction of Claim Three
15 of the '683 patent?

16 A Yes, it is.

17 Q Why you have color-coded these separate claim
18 elements?

19 A We're going to be going through the operation of
20 the patent and ultimately the Lawson system, and I
21 thought that since these claim terms are recurring
22 themes, it might be easier for us to understand it if
23 they were color-coded. So, for instance, when we talk
24 about having multiple product catalogs, I've coded the
25 demonstratives in orange. And if we're talking about

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1 selecting product catalogs, I've colored them in
2 green, and so on.

3 Q You have consistently applied this color scheme to
4 the claim elements throughout?

5 A Yes.

6 Q Now, you have conducted an analysis with respect
7 to the 12 claims that are being asserted in this case
8 in the three patents?

9 A Yes.

10 Q What I'd just like to do is just walk through
11 them. I think you had the same juror notebook that
12 the jury has, but let's start with the first patent,
13 the '683 patent, under tab 2 in the jury notebook, and
14 you'll see there are yellow tabs on them. If we could
15 go to the first yellow tab, which is at column 25 in
16 Claim Three. Do you see that highlighted?

17 A Yes, I do.

18 Q That's the same Claim Three that you have
19 color-coded?

20 A Yes.

21 Q Also Claim 26 is at issue, correct?

22 A Yes, it is.

23 Q And Claim 28 is at issue, correct?

24 A Correct.

25 Q And Claim 29 is at issue, correct?

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1 A Correct.

2 Q Let's just turn back to Claim Three for a second.
3 Is that a system claim or is that a method claim?

4 A This is a system claim.

5 Q Can you explain to the jury what you understand a
6 system claim to be?

7 A So this is a claim about how an electronic
8 sourcing system operates and the characteristics that
9 it has.

10 Q Is it the structure of the system?

11 A Yes, it is.

12 Q Claim 26 says it's a method comprising the steps
13 of. Can you explain to the jury what your
14 understanding is of what a method claim is?

15 A The method claim is a process, and these are the
16 elements of the claim that you see in 26 are the steps
17 that an electronic sourcing system would take a
18 computerized system.

19 Q So these are steps that have to be performed,
20 these are the steps that have to be completed to
21 perform the method?

22 A That is correct.

23 Q Claim 28 is a method claim?

24 A Yes, it is.

25 Q Claim 29 says, The method of Claim 28 further

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1 comprising the step of determining whether a selected
2 matching item is available in inventory. Do you see
3 that?

4 A I do.

5 Q What's your understanding of the nature and type
6 of Claim 29?

7 A Claim 29 is a dependent claim, and it depends upon
8 Claim 28.

9 Q What does that mean in terms of our understanding
10 of the analysis that you're going to conduct?

11 A That means that if we're to show infringement of
12 Claim 29, we must also show infringement of Claim 28.

13 Q So in order to claim Claim 29 infringes, we'll
14 have to establish that a Lawson system performs all
15 the steps of Claim 28 along with the steps that are in
16 Claim 29; is that correct?

17 A Yes, it is.

18 Q To prove Claim 28 infringes, do we have to prove
19 Claim 29 infringes?

20 A No.

21 Q Can we prove that Claim 29 infringes without
22 proving Claim 28 infringes?

23 A No.

24 Q Thank you.

25 Why don't we go to tab 3, which is the '516

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1 patent, and you'll see that is tabbed as well. The
2 first claim appears at column 23. Is that a system
3 claim or a method claim?

4 A This is a system claim.

5 Q And Claim Two is also at issue. Do you see that?

6 A I do.

7 Q Is that one of the dependent claims you have just
8 explained?

9 A Yes, it depends on Claim One.

10 Q So we would need to establish that the accused
11 product that Lawson has all the elements of Claim One
12 including the element of Claim Two if we were to
13 establish that Claim Two infringes; is that right?

14 A That's right.

15 Q Claim Six is also a dependent claim; is that
16 right?

17 A Yes.

18 Q It depends from Claim One, do you see that?

19 A Yes.

20 Q To prove that Claim Six infringes then, we'd have
21 to prove all the elements of Claim One plus the
22 additional element of Claim Six; is that right?

23 A Yes, it is.

24 Q Would we have to prove that Claim Two infringes in
25 order to prove that Claim Six infringes?

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1 A No.

2 Q Why is that?

3 A Because Six is not dependent on Two.

4 Q It's only dependent on Claim One?

5 A It's only dependent on Claim One.

6 Q Claim Nine, is that a dependent or independent
7 claim?

8 A Independent.

9 Q Is that a system or method?

10 A System.

11 Q Okay. Claim 21 is also at issue. Do you see
12 that?

13 A Yes.

14 Q And Claim 22 is at issue?

15 A Yes.

16 Q Both are system claims. And, again, Claim 22 is
17 one of those the dependent claims; is that correct?

18 A Yes, it is.

19 Q Claim 29 is at issue, and that is also a system,
20 correct?

21 A Yes.

22 Q Finally, under tab 4, we have the '172 patent.

23 Only one asserted claim here, and that is Claim One,
24 and that starts at column 23. Is that a system or a
25 method claim, sir?

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1 A This is a system claim.

2 Q Does Claim One of the '172 patent actually recite
3 catalogs?

4 A No, it has a database rather than catalogs.

5 Q What does the database contain?

6 A It's data relating to items from multiple vendors.

7 Q So in that instance, would the Court's instruction
8 of catalog apply to Claim One of the '172 patent since
9 it doesn't recite that claim term?

10 A No, it would not.

11 Q And that would be for purposes of both
12 infringement and invalidity, correct?

13 A Correct.

14 Q Why don't we take a look at the color-coded scheme
15 for Claim 28. That's 330193. So you have also this
16 is a method claim that's in the '683 patent, and
17 you've color-coded this as well; is that right?

18 A Correct.

19 Q And the same color schemes for your Claim Three,
20 which is the system claim, correlate to the steps of
21 Claim 28?

22 A Yes.

23 Q Now, just referring back to Claim Three for a
24 minute, the electronic sourcing system, color-coded,
25 this has six elements, is that right, to comprise the

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1 electronic sourcing system?

2 A That's right.

3 Q It uses the term "comprising." Do you see that?

4 A I do.

5 Q What is your understanding of what the term
6 "comprising" means?

7 A Including but not limited to.

8 Q When you say "including but not limited to," does
9 that mean that in order to prove infringement, all of
10 these six elements need to be present in the accused
11 product, the Lawson S3 procurement system, but it may
12 have additional elements and that doesn't avoid
13 infringement?

14 A That's correct.

15 Q But we at least have to have these six; is that
16 right?

17 A That's correct.

18 Q But if I have 7, 8, 9 or even 100 additional
19 elements, is that relevant to the infringement
20 analysis?

21 A No, only these six.

22 Q So if we establish these six, the fact there are
23 other elements, doesn't avoid infringement; is that
24 your understanding?

25 A That's correct.

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1 Q Could I just refer you back to the glossary, if I
2 could, as to the Judge's construction of "catalog."
3 Do you see that?

4 A I do.

5 Q Why don't we just read it out loud if we could
6 because I'm going to have some questions about that?

7 A So a catalog or product catalog is defined to be
8 an organized collection of items and associated
9 information published by a vendor, which includes
10 suppliers, manufacturers, and distributors, which
11 preferably includes a part number, price, catalog
12 number, vendor name, vendor ID, a textual description
13 of the item, and images of or relating to the item.

14 Q Now, it says "preferably includes." What is your
15 understanding as to what the Court mean when it said
16 "preferably includes"?

17 A That these are examples of data items that might
18 be there.

19 Q Do they all have to be there under the Court's
20 construction?

21 A No.

22 Q It also indicates that it is an organized
23 collection of items and associated information
24 published by a vendor. Do you see that?

25 A I do.

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1 Q Does the Court's construction anywhere in it
2 indicate who has to select this organized collection
3 of items to be included as a catalog?

4 A No.

5 Q Does the Court's construction preclude anybody
6 from selecting this organized collection of items
7 available from vendors?

8 A No.

9 Q The Court also indicates in here that there can be
10 a textual description of the item. Do you see that?

11 A Sure.

12 Q Does the Court's construction anywhere indicate
13 how detailed that description needs to be?

14 A No, it does not.

15 Q You've worked with electronic procurement systems
16 including the Lawson system, correct?

17 A Yes, I have.

18 Q Have you seen textual descriptions of the items in
19 those systems?

20 A Many times.

21 Q There's a certain number of characters that you
22 can enter in the entry system in the Lawson accused
23 product. Do you understand that?

24 A Yes.

25 Q Does the Court's construction have anywhere in

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1 there any kind of limitation on the number of
2 characters that can be included in the textual
3 description?

4 A No.

5 Q So the Court's construction says you have to have
6 a textual description, but it doesn't specify the
7 detail that's required; is that right?

8 A Well, it doesn't even say you have to have a
9 textual description. It's an example of a field that
10 may be there, but there is no requirement as to things
11 like the length of the description.

12 Q It's one of those things the Court said preferably
13 should be there?

14 A That's right.

15 Q So then this organized collection of items and
16 associated information, it can come from anywhere or
17 be selected by anybody; is that right?

18 A Yes.

19 Q Does the Court indicate in its definition of a
20 product catalog that it has to include an entire
21 catalog?

22 A No.

23 Q Does it preclude that a catalog could include a
24 subset of items?

25 A No, it says preferably.

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1 Q It's silent as to that; is that right?

2 A Right.

3 Q Agnostic?

4 A Yes.

5 Q Thank you.

6 The Court's catalog construction also says that
7 this collection of items and associated information is
8 published by a vendor. Do you see that?

9 A I do.

10 Q Can you look through the glossary for me and find
11 where the Court construed "published by a vendor"?

12 A It's not there.

13 Q So the Court didn't construe "published by a
14 vendor" anywhere in this glossary or to your knowledge
15 in these proceedings; is that right?

16 A That's correct.

17 Q You were deposed in this case. They took your
18 testimony under oath?

19 A Yes.

20 Q Do you recall being asked a question at your
21 deposition as to what "published by a vendor" means?

22 A Yes.

23 Q Did you have any guidance from the Court as to
24 what "published by a vendor" means?

25 A No.

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1 Q So what did you do when you were asked that
2 question? You gave a response, I assume?

3 A Yes, I gave a common sense answer.

4 Q What was that answer?

5 A That "published by a vendor" means that the data
6 is available from the vendor.

7 Q So the vendor either verbally or in writing, even
8 electronic writing, is the source of that information;
9 is that your understanding?

10 A That's what I said.

11 Q That's your common sense understanding of what
12 "published by a vendor" means?

13 A Yes.

14 THE COURT: What does his common sense
15 understanding have to do with anything in the case?

16 MR. ROBERTSON: Well, at some point, Your
17 Honor --

18 THE COURT: It has to be the understanding of
19 a person of ordinary skill in the art, doesn't it?

20 MR. ROBERTSON: Fair enough. Let me ask you
21 that.

22 BY MR. ROBERTSON:

23 Q Would that be your understanding as to what the
24 understanding of a person of ordinary skill in the art
25 would -- how they would construe "published by a

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1 vendor"?

2 A Yes.

3 MR. ROBERTSON: Thank you, Your Honor.

4 THE COURT: Just a minute. You have this
5 glossary of terms here. How this came to happen is
6 this. The law is that the terms as they are used in
7 any patent is a matter for the Court to interpret if
8 there's a dispute about what the terms mean.

9 At the beginning of the case, I told the
10 parties, Tell me what terms you think are in dispute,
11 and I then will interpret those terms if you can't
12 agree upon them. And that's how it came to be that I,
13 the Court, interpreted the claims. And that's why
14 you're bound by the Court's interpretation. There was
15 no interpretation, the record would reflect, of
16 "published by a vendor" because nobody asked that
17 there be an interpretation of "published by a vendor."

18 And the general rule is that a term that
19 isn't defined by the Court has its ordinary and usual
20 meaning. And in patent law that is the ordinary and
21 usual meaning of a person who is of ordinary skill in
22 the art. That's somebody whom they have defined for
23 you yesterday that I believe have a college degree in
24 computer sciences or electrical engineering or a like
25 discipline and have a year or two of writing software

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1 and understanding the electronic or working in the
2 electronic procurement process.

3 So that's how we got -- that's what this is
4 all about. And I'm beginning to believe that
5 Mr. Robertson may want to testify and that Dr. Weaver
6 may want to be the judge, the way the questions are
7 going. So I don't think he really wants that or you
8 want that. So let's get on.

9 BY MR. ROBERTSON:

10 Q I just want to understand with respect to the
11 catalog information that's preferably included under
12 the Court's construction, what is your
13 understanding of what a person of ordinary skill in
14 the art would understand as who would be the source of
15 that information, the part number, the price, the
16 vendor ID, etc.?

17 A A person of ordinary skill in the art would, it's
18 in my opinion, that a person of ordinary skill in the
19 art would believe that that data came from the vendor.

20 Q Can we show the short form of Claim Three. The
21 color coded short version.

22 Doctor, here is a demonstrative created at your
23 direction. What are you trying to illustrate here?

24 THE COURT: He keeps using the term
25 "demonstrative," and I bet you don't use that in your

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1 everyday vernacular. It's sort of a lawyer term. And
2 it just simply means this is something that has been
3 created to help show you things in a visual way and
4 help you understand testimony.

5 The demonstrative is short for a
6 demonstrative exhibit, but it really isn't something
7 that you'll have as part of the record, but it is
8 intended to help you use this and listen to the
9 witness' testimony and follow along and better
10 understand what's being said.

11 I guess we've all gone along to the point in
12 our lives where, at least for some of us, visual
13 learning is a help and an aid to oral understanding,
14 and that's part of what this is all about. It's
15 defined to help you. All right.

16 MR. ROBERTSON: Thank you, Your Honor.

17 Q Sir, what are you trying to illustrate in this
18 demonstrative?

19 A I was trying to capture the essence of the claim
20 elements and to present with each one an icon that
21 would help us visually remember what they mean.

22 Q So what are the icons here, if you could just --

23 A So for the first one, maintaining at least two
24 product catalogs, my icon is a set of catalogs that
25 are electronic because they are embedded in a

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1 computer. For the selecting the product catalogs of
2 the three catalogs that I have shown, I've highlighted
3 one, and it's bordered by red to indicate selected.

4 For the pink one, searching for matching items, I
5 used a flashlight shinning into the database that's in
6 the computer.

7 For building a requisition, I've got an icon of a
8 requisition that would be created by the system.

9 And for the generating one or more purchase
10 orders, I've got an icon of a purchase order that's
11 being produced by the electronic system.

12 And for converting data, I've got an icon of two
13 test tubes that are either similar or identical.

14 Q Have you maintained the color scheme for this
15 demonstrative as well?

16 A Yes, this is the same as the long form of Claim
17 Three.

18 Q And you have a similar demonstrative for the
19 method claim, Claim 26, of the '683 patent?

20 A I do.

21 Q Do you have that on your screen, Doctor?

22 A Yes.

23 Q Tell us what you're illustrating with this method
24 claim. This has a new step I don't think we've seen
25 before.

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1 A That's right. That's the one at the bottom. So
2 when we talk about maintaining at least two product
3 catalogs, I've got the same icon of three catalogs
4 stored electronically.

5 For selecting the product catalog, same icon. One
6 of the catalogs is highlighted because it's been
7 selected.

8 For matching items, still using the search light.

9 For building a requisition, still using a picture
10 of a requisition.

11 For the purchase order, still using the icon of
12 the purchase order.

13 And then the new one, determining availability in
14 inventory, I'm trying to illustrate that we're looking
15 into the records of how many items are on hand to
16 determine whether a particular item that I might wish
17 to order is available in a vendor's inventory.

18 Q Now, Doctor, you indicated yesterday that you
19 reviewed a number of the documents that were produced
20 by Lawson in this case; is that right?

21 A Yes.

22 Q Does Lawson use the term "product catalog" in its
23 literature?

24 A Yes, many times.

25 Q Have you made a determination in your review of

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1 these documents whether Lawson uses that term, product
2 catalog, consistently with the Court's definition?

3 A Yes, they do.

4 Q Why don't we take a look at Plaintiff's Exhibit.

5 THE COURT: Excuse me.

6 MR. McDONALD: Your Honor, we're getting into
7 the issue of catalogs. It's not so much an objection,
8 but I request the Court to remind the jury about the
9 use of the word catalogs by the witnesses versus the
10 claim, use of the word catalogs in the claim at this
11 point.

12 THE COURT: I think what he was saying, I
13 think the question related to whether he understood
14 the use of the word "catalog" in the Lawson literature
15 that he had reviewed to be the same as the definition
16 that the Court gave the term.

17 Wasn't that the question?

18 MR. ROBERTSON: Yes, Your Honor.

19 THE COURT: I don't see that that instruction
20 is required.

21 MR. ROBERTSON: Thank you.

22 Q Could we see Plaintiff's Exhibit 149, please.
23 That is in Volume IV.

24 THE COURT: What is it that you're having him
25 look at?

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1 MR. ROBERTSON: I was going to identify it
2 right now, Your Honor.

3 THE COURT: What exhibit?

4 MR. ROBERTSON: 149.

5 THE CLERK: 149, plaintiff's, Your Honor.

6 MR. ROBERTSON: Plaintiff's Exhibit 149.

7 BY MR. ROBERTSON:

8 Q Can you tell me what this is, Doctor?

9 A This is a request -- excuse me. It's a response
10 to a request for information from Holland Hospital.

11 Q And it's a response that Lawson gave to a request
12 for information?

13 A That's correct.

14 Q And this request for information, is that similar
15 in your understanding as to what these RFPs were you
16 were describing yesterday?

17 A Yes, they are.

18 Q So was Lawson responding to information that
19 Holland Hospital was requesting?

20 A Yes, they were.

21 Q Can we turn to the page in Exhibit 149 that ends
22 with the Bates label 759.

23 In the middle here under instructions for
24 application, functional requirements questions,
25 there's A, B, C and D. Could you highlight that for

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1 us, please.

2 So these are instructions that Holland Hospital is
3 giving to Lawson as to how they should indicate the
4 availability of certain requirements in the Lawson
5 system; is that your understanding?

6 A Yes.

7 Q So why don't you tell the jury what these
8 various -- what A, B, C and D mean in Holland
9 Hospital's requirements questions?

10 A So what Holland Hospital did was to produce a set
11 of questions asking about, as we said yesterday,
12 capabilities and functionality, and the requested
13 response was first this letter coding, A, B, C, D. So
14 if the response is A, as you can see in the legend
15 here, then the functionality that's being requested
16 is -- Lawson is saying it's available and currently
17 installed.

18 If the response is B or C or D, then it's as you
19 can read, under development or customized or simply
20 not available.

21 Q So A is available and currently installed; is that
22 right?

23 A That's right.

24 Q Underneath that is a heading called "rating
25 column." Could you highlight that for us, please?

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1 And for each requirement listed Lawson was required to
2 rate the application's performance on a scale of 0 to
3 7 with 0 indicating no performance and 7 indicating
4 leading edge capabilities. Do you see that?

5 A Yes.

6 Q Could you turn to the page that ends with 767 in
7 this response that Lawson gave to Holland Hospital.
8 Do you see the question No. 10?

9 A I sure do.

10 Q Can you tell us -- there it says, "ability to
11 produce supply catalogs by item number, manufacturer,
12 vendor, class and inventory location. Do you see
13 that?

14 A Yes.

15 Q And what was Lawson's response to this
16 requirement?

17 A So the letter code is A, which, as we just saw,
18 meant that this is installed and available. And the
19 numeric rating code is 7, which, as we just saw, meant
20 leading edge capabilities.

21 Q If we go back to the front page of Plaintiff's
22 Exhibit 149 and just highlight the date for us,
23 please.

24 Was Lawson representing as of January 6, 2006,
25 that it had the ability to produce supply catalogs by

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1 item number, manufacturer, vendor, class and inventory
2 location, and that it was a leading edge capability?

3 A That's what this document says.

4 Q Is that description of its capability to produce
5 these catalogs in your opinion consistent with the
6 Court's definition of a catalog?

7 A Yes.

8 THE COURT: Now, ladies and gentlemen, just
9 so you understand, he's not testifying about what
10 Lawson intended when they used that term. He's
11 testifying about his interpretation of what that term
12 means as Lawson used it. He can't know what Lawson
13 intended. Maybe if Lawson intended something else,
14 they can put on somebody to testify that that's not
15 what we intended, and you have to take that into
16 account in deciding the case.

17 Is that the kind of instruction you wanted?

18 MR. McDONALD: Yes, Your Honor. That will be
19 fine.

20 THE COURT: Mr. Robertson, how do we know
21 that that response there has anything to do with the
22 systems that are accused? They can be talking about
23 the Lawson common fraud system for all I know, not
24 that there is one of those. But do we have a basis
25 for any of this? And have we yet told the jury what

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1 the Lawson system is that's accused. It's System 3,
2 isn't it? That's what it is, isn't it? Did he look
3 at that?

4 MR. ROBERTSON: Let me ask you that, Doctor.

5 Q What systems, what functionality, what modules did
6 you look at with respect to the Lawson system when you
7 rendered your opinions concerning infringement?

8 A There's an S3 procurement system that has a series
9 of modules, software programs inside. So there's a
10 Lawson system foundation. There's a Lawson process
11 flow. There's a requisition module, a purchase order
12 module, and inventory control module. There are other
13 modules that can sit on top of those like requisition,
14 self service, a Punchout, which I'll explain later,
15 and an EDI, electronic data interchange module.

16 Q Could they be combined in various configurations?

17 A They can. There are certain things that must be
18 present and others that can optionally be hooked
19 together.

20 Q Was it your understanding that Lawson in the
21 response to the Holland Hospital --

22 THE COURT: What was your understanding as to
23 what Lawson used to prepare the response? Instead of
24 leading him; ask him.

25 Q What was your understanding that Lawson was

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1 proposing to Holland Hospital in response to its
2 request for information?

3 A The S3 procurement system.

4 THE COURT: In other words, they used the S3
5 system in order to prepare that response; is that your
6 understanding?

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: What's a module? You used that
9 term.

10 THE WITNESS: I'm sorry, Your Honor.

11 THE COURT: What is a module as you used that
12 term?

13 THE WITNESS: Oh, a module is a piece of
14 software, and we call it a module because it fits
15 together with others.

16 BY MR. ROBERTSON:

17 Q Dr. Weaver, if I could just take you back to 149,
18 Plaintiff's Exhibit 149, back to that page that was
19 759. And under the material management requirements
20 up at the top third bullet down, do you see that?

21 A Yes.

22 Q What is it that were the requirements?

23 A So the requirements are these three modules:
24 Inventory control, purchasing, and requisitioning.

25 Q Were those the modules that you have looked at

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1 with respect to conducting your infringement analysis
2 among others?

3 A Yes.

4 THE COURT: I don't know that the doctor
5 explained this and I just missed it. What was being
6 requested, is your understanding, by Holland Hospital
7 here? Was it being requested, for example, to give us
8 a proposal for a system we could buy? Was it a
9 proposal for you doing work using your system?

10 I think you-all may be more familiar,
11 Mr. Robertson, with the case than perhaps the jury and
12 I are, and it might be helpful to keep that in mind.

13 What do you understand, Dr. Weaver, the
14 request for proposal was actually asking Lawson to
15 provide after you read it?

16 THE WITNESS: Well, Your Honor, this was a
17 request for information rather than request for
18 proposal. So this is asking questions about what
19 functionality and capabilities Lawson could provide.
20 So depending upon the question, the answer might be
21 that --

22 THE COURT: Excuse me. Lawson could provide
23 by doing it or following up with it or Lawson could
24 provide by giving them some software and letting them
25 do it or what?

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1 THE WITNESS: Yeah, that was exactly what my
2 answer was going to be. Depending on the question,
3 the response might be that Lawson would license a
4 software module to the hospital, and the hospital
5 personnel could run it and maintain it. Or perhaps
6 Lawson would install it for them or perhaps Lawson
7 would host it for them.

8 THE COURT: What does that mean? What does
9 host it mean?

10 THE WITNESS: Host it means that the software
11 that runs the system physically resides on a computer
12 server, a big computer system, that Lawson itself owns
13 and maintains so that it's always available.

14 THE COURT: But the hospital could use it?

15 THE WITNESS: Yes, it would be for the
16 hospital's use.

17 MR. ROBERTSON: Thank you, Doctor.

18 BY MR. ROBERTSON:

19 Q Let me ask you to take a look at Plaintiff's
20 Exhibit No. 219. It's in Volume V.

21 THE COURT: 319?

22 MR. ROBERTSON: 219, Your Honor.

23 BY MR. ROBERTSON:

24 Q Doctor, tell us what Plaintiff's Exhibit 219 is.

25 A The Scottsdale Unified School District wrote a

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1 request for proposal and this is Lawson's response to
2 that RFP.

3 Q What is the date of this?

4 A December 14, 2005.

5 Q Let me focus you then on -- well, what was your
6 understanding that the Scottsdale Unified School
7 District, No. 48, was requesting Lawson to make a
8 proposal for?

9 A Financial management software.

10 Q Did it also include procurement software?

11 A Yes, it did.

12 Q Can I direct you to the page that ends with the
13 Bates label 687. And at the top of the page there's a
14 heading called "Lawson's Procurement Suite." Do you
15 see that?

16 A I do.

17 Q There's a subheading, "Purchase Order." Do you
18 see that?

19 A I do.

20 Q Is the purchase order module one of the pieces of
21 software that you did some analysis with respect to
22 your infringement opinions?

23 A Yes, it's one of those modules.

24 Q And what does Lawson represent here, focusing now
25 on about --

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1 MR. ROBERTSON: Starting at the beginning
2 down to about "receiving goods," midway through that
3 paragraph, if you could highlight that for me, Mike.
4 The entire paragraph.

5 Q What is Lawson indicating here in response to this
6 request for proposal as to the purchase order module
7 of its procurement suite?

8 A So after the words "Lawson's purchase order," it
9 says that it streamlines the procurement process from
10 establishing vendor pricing, agreements, and
11 contracts, importing and maintaining item information,
12 creating and issuing purchase orders to receiving
13 goods.

14 Q And purchase order is a subject of the claims that
15 are at issue in this case?

16 A Yes.

17 Q What does Lawson say there with respect to the
18 advantage of this purchase order module that they are
19 offering?

20 A That it's going to improve efficiency.

21 Q How is it going to do that?

22 A By automating this process of putting everything
23 on a computer.

24 Q All right. Can you explain to the jury what this
25 vendor price agreement is that's referenced here?

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1 A Sure. The vendor price agreement is a contractual
2 agreement between Lawson's customer and a particular
3 vendor that the vendor is going to supply a set of
4 items at a fixed cost or at a particular cost.

5 Q It references here to importing item information.
6 What's your understanding with respect to what
7 importing item information means in Plaintiff's
8 Exhibit 219, this response to an RFP?

9 A When you have a database of information, it has to
10 be filled. We call it populated. You populate the
11 database. And the way that or one of the ways that
12 you can do that is to bring in data and put it into
13 the format that is appropriate for the database. And
14 that process is called importing. Importing data into
15 the database.

16 Q Can you turn to the next page, please. And on
17 this page it's entitled, Requisitions. Do you see
18 that?

19 A Yes.

20 Q Is that one of the software modules that you
21 examined in order to determine your make your
22 infringement analysis?

23 A Yes, it's part of the procurement suite.

24 Q At the bottom there's a heading that says, Several
25 Features of Lawson's Requisition Include. Do you see

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1 that?

2 A I do.

3 Q There are six bullet points, I believe. Can you
4 focus us in on the bullet points you think are
5 significant to your opinions?

6 A The two that I think are important here are the
7 first bullet point, custom catalogs and templates.
8 And the fourth one; stock, nonstock, special items or
9 services on a single requisition.

10 Q Why do you find those significant?

11 A Because these relate to the patent claims.

12 Q In what way?

13 A In that the patent talks about being able to have
14 electronic catalogs, and that as items are picked on a
15 hit list, then it becomes ultimately an order list, a
16 chosen set of items. That ultimately becomes a
17 requisition. And that is what the requisitioning
18 system in Lawson does.

19 Q It indicates you can have stock, nonstock, special
20 items or services on a single requisition. Is that
21 significant in your analysis?

22 A Oh, yes. If you recall from yesterday, when I was
23 starting my computer lab back in the '70s, the
24 purchasing specialist and I had to write -- had to
25 take my list of wants and divide that so that we were

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1 sending requisitions to an individual vendor to get
2 quotes. So it's a convenience and a time saver and a
3 cost saver if I can put all of the items that I want
4 to order on a single requisition.

5 And then in this case because it's computerized,
6 the purchase order module can look at the requisition
7 and look at that single requisition and divide it into
8 purchase orders automatically. So the single
9 requisition is a big deal.

10 Q What's a nonstock item, sir?

11 A Well, that's something that the company does not
12 have in stock and so it's bought from an external
13 vendor.

14 Q This ability to buy various items from various
15 vendors and place them on a single requisition, is
16 that included in any of the claim elements that you
17 have examined?

18 A Yes, it is.

19 Q Can you give us just an example. Can I look at
20 Claim Three of the '683 patent?

21 A Sure.

22 Q Tell us where that particular feature is.

23 A Sure. That is being color-coded in blue. Means
24 for building a requisition using data related to
25 selected matching items and their associated sources.

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1 Q So we could have a requisition with matching items
2 from more than one source; is that right?

3 A That's right.

4 Q Is that consistent with the representation that
5 Lawson is making in its response to a request for
6 proposal on page 868 of Plaintiff's Exhibit 219?

7 A Yes, it is. It's talking about nonstock items on
8 a single requisition.

9 Q Can you take a look at the next page titled
10 "Inventory Control." Is the inventory control module
11 one of the modules you examined in conducting your
12 infringement analysis?

13 A Yes, it is a third module in the procurement
14 suite.

15 Q Is there anything you'd like to direct us to here?
16 What does the inventory control module permit you to
17 do?

18 A Yes. The introductory sentence there explains
19 what's going on. Inventory control enables you to
20 effectively monitor and manage inventory throughout
21 the organization. It's flexible design and complete
22 integration with requisitions and purpose order
23 applications help facilitate a smooth flow of
24 information and products.

25 So, again, this inventory control is one of the

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1 three main software modules in the procurement suite
2 along with requisitions that we just looked at, and
3 before that, the purchase order module.

4 Q Could we go to, in 219, could we go to the page
5 that ends in 013? It's actually PX 219 at 0179. Let
6 me make sure I've got it. Thank you. Okay.

7 There's a series of questions here. Let me just
8 go to the beginning of it. They start at page 177 of
9 this exhibit. Do you see it says,
10 Requisition/purchase order process, No. 9, at the top
11 there?

12 A I'm sorry. What page?

13 Q 177 of 180. It's in the middle at the bottom
14 there.

15 A Page 177?

16 Q Yes, sir. It ends with 0119011.

17 THE COURT: What do you mean ends with?

18 MR. ROBERTSON: Excuse me?

19 THE COURT: It ends? What's the "it"?

20 MR. ROBERTSON: The Bates number, Your Honor.

21 THE COURT: The lower number in the number is
22 a Bates number, and what number is that one?

23 MR. ROBERTSON: This is exhibit number --

24 THE COURT: No, what number is the Bates
25 number? Sorry.

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1 MR. ROBERTSON: 9011.

2 THE COURT: Can you find that, Doctor?

3 THE WITNESS: Yes. That's my page 180.

4 BY MR. ROBERTSON:

5 Q So there's a heading 9 there called
6 Requisition/purchase order process. Do you see that?

7 A Right. I've got it now.

8 Q Well, there are a number of questions that are
9 being asked under that heading, correct?

10 A Right.

11 Q And Lawson is giving a number of responses. Do
12 you see that?

13 A I do.

14 Q Okay. Can you go now to page 179 of 180 or where
15 it ends with the Bates label 9013, and there's a
16 question G. Do you see that?

17 A I do.

18 Q Now, confirm for me that we're still talking about
19 the requisition/purchase order process questions that
20 are being asked by Scottsdale Unified School District?

21 A Yes.

22 Q Okay. There's a question there: Does the system
23 allow for a catalog of preapproved items for the
24 requisitioners to choose from. Do you see that?

25 A I do.

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1 Q What was Lawson's response?

2 A Individual departments and users can establish
3 custom catalogs that reflect their unique ordering
4 patterns. Furthermore, you can establish catalogs for
5 certain days of the week by item classification,
6 vendor, or other criteria.

7 Q Turning back to that Claim Three demonstrative we
8 have, the first element says at least two product
9 catalogs. Do you see that?

10 A I do.

11 Q Can there be more than two?

12 A Oh, yes.

13 Q But there must be a minimum of two?

14 A That's right.

15 Q When we're talking about these, the claim element
16 three, which says, Means for selecting product
17 catalogs to search, just explain what your
18 understanding of that is from the perspective of a
19 person of ordinary skill in the art.

20 A This means that there must be a user interface
21 capability that allows a user to select one or more of
22 the catalogs that are available in the system.

23 Q Can we go to -- this is demonstrative 093, page 1.
24 Side by side. This is the short form color-coded
25 demonstrative. Can you put that next to the 093, page

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1 2?

2 You mention the term "user interface," Doctor.
3 What did you mean by that term?

4 A That's a computer science term of art and it means
5 the way that the computer program is going to
6 converse, as it were, with the human user. And if
7 you're familiar with Google or Yahoo, you're familiar
8 with a text box where you type in. In Google, you're
9 typing in a search query. But that text box is an
10 example of a user interface.

11 If you're represented with a drop down menu and
12 you click on the top element, the drop down menu opens
13 up, and you can scroll down and pick one of those
14 elements.

15 If you have a selection to make and you have a
16 series of radio buttons, then you can click on one
17 button, and you have made a selection of one out of
18 however many choices there are.

19 If you double click on a hyperlink, then that user
20 interface element is directing the browser to go to
21 another page. So --

22 Q Let me stop and ask you what a hyperlink is?

23 A Hyperlink is an encoding within a web page that
24 says -- that redirects the browser to a different page
25 when you click on it.

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1 Q Sir, with respect to this claim element, for
2 purposes of the jury's determination, what is relevant
3 to your determination in their assessment of whether
4 infringement occurred?

5 A It's whether or not that user interface exists in
6 the Lawson system.

7 Q And in your analysis of the Lawson system, does
8 that, in fact, exist?

9 A Yes. I'm going to demonstrate that later.

10 Q This claim element we've been looking at for the
11 means of selecting the product catalogs to search,
12 does the claim require that the user select multiple
13 product catalogs to search simultaneously?

14 A No, not simultaneously. You could search one
15 catalog and then search another one. So a serial
16 search would satisfy this claim element.

17 Q Going back to the third element of Claim Three,
18 which recites means for searching for matching items
19 among the selected product catalogs, and you have
20 illustrated this in your diagram. What's your
21 understanding of how the system needs to perform in
22 order to accomplish that element?

23 A Well, if you're going to search, then you need a
24 search program. And the search program has to have
25 input, a query, so it knows what to search for. And

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1 so if you have a search program and if the user can
2 input a search request, then that search program can
3 identify matching items, items that match the query
4 term among the selected product catalogs.

5 You could also do it not only with textual search,
6 but with drop down menus. You could search that way,
7 too.

8 Q You used the term "drop down menu." Could you
9 just explain what you mean when you use that term?

10 A Yes. So in building a web page, this is done
11 using hypertext markup language, HTML, and there's a
12 standard construct there that's a drop down menu. So
13 you program this so when this is displayed to the
14 user, there is a top level category, and it typically
15 says "select." And if you click on select, then the
16 menu opens up. It drops down and a series of choices
17 are presented. And then you can take the mouse and
18 pick one of those.

19 The most insidious of these is when you're trying
20 to fill in your address and the choice is state. You
21 click on state, and all the 50 states fill up your
22 whole screen, and you have got to go pick one.

23 Q In one of these demonstrations you're going to do
24 on the Lawson accused product, will we see this drop
25 down menu?

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1 A We sure will.

2 Q The next element of Claim Three, which is
3 color-coded blue and has this means for building a
4 requisition using data relating to selected matching
5 items and their associated sources, what's your
6 understanding as to what a requisition is?

7 A The requisition is the formal list of items that
8 you wish to purchase.

9 Q Moving on to the next element of Claim Three,
10 which is yellow in your illustration. It says, A
11 means for processing the requisition to generate one
12 or more purchase orders for the selected matching
13 items. You mention the term "purchase order" when you
14 were discussing requisitions. How does a purchase
15 order differ from a requisition?

16 A The requisition is the list of things you want. A
17 purchase order is the contract vehicle for buying. So
18 when I have a purchase order and I send it to a
19 company, this is the legal document that says I want
20 to buy the item or items on this purchase order.

21 Requisition is your total list of things you'd
22 like to buy. Purchase orders go to individual
23 companies.

24 Q When you're providing your understanding of the
25 definitions and the meanings of these terms, is that

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1 the same understanding as a person of ordinary skill
2 in the art at the time?

3 A Yes.

4 Q So how would the fifth element of Claim Three be
5 satisfied?

6 A We would have to see a requisition module that can
7 take the formal requisition, which could have many
8 items from many vendors, and then turn that into one
9 or more purchase orders. And, typically, you have all
10 the items from one vendor on one purchase order if you
11 can do it. If they are present.

12 Q Moving on to the sixth and last element of Claim
13 Three, which you have color-coded brown. That element
14 recites means for converting data relating to a
15 selected matching item and an associated source to
16 data relating to an item and a different source. How
17 are we to understand that claim element?

18 A So if I have a list of items and for some
19 reason -- let's say I want to do comparison shopping
20 or say that the item that I want, I've checked the
21 inventory, and it's not available. So there has to be
22 a converting means whereby I can look for similar
23 items, and this is all computer assisted. I can find
24 similar items that I might choose instead of the one
25 that I had initially inquired about.

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1 MR. McDONALD: Your Honor, I'm going to
2 object to this question about this. This is a
3 means-plus-function clause and he's asking him what it
4 means. It should be done in the context of the --

5 THE COURT: I was just looking at page 2 of
6 the glossary. I think that's been defined over there.

7 MR. ROBERTSON: I was just going to ask him
8 to go to that page.

9 THE COURT: Don't be having him give his own
10 constructions, please, before you ask him to go to the
11 ones that have been construed.

12 BY MR. ROBERTSON:

13 Q If you go to page 2 of the Court's glossary, Dr.
14 Weaver.

15 A Yes.

16 Q What's the function that's being defined here on
17 the means for converting data for this claim element?

18 A The function of this element is converting data
19 related to a selected matching item and an associated
20 source.

21 Q According to the Court, how can this function be
22 accomplished? By what structure?

23 A The corresponding structures, materials or acts of
24 this element are disclosed as one or more non-catalog
25 databases identifying cross-referenced items,

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1 identical items, or generally equivalent items; one or
2 more cross-reference tables or file identifying
3 cross-referenced items, identical items, or generally
4 equivalent items; one or more codes corresponding to
5 cross-referenced items, identical items or generally
6 equivalent items; and their equivalents.

7 Q In that definition there are non-catalog databases
8 identifying cross-referenced items, identical items or
9 generally equivalent items, cross-reference tables or
10 files and one or more codes.

11 As a computer scientist, can you tell us what your
12 understanding as a person of ordinary skill in the art
13 would understand those three terms to mean?

14 A Sure. So a non-catalog database is a file that is
15 not part of the physical structure of the database
16 system. So it's an external file.

17 In this context, it's identifying the
18 cross-referenced items. So, for instance, we might
19 have a vendor -- think of a file that has records.
20 Think of that as a row in a table. We might have one
21 vendor's part number and a second vendor's part number
22 in that row. And if this is in a cross-reference
23 index that indicates in this context that those two
24 part numbers are identical or generally equivalent --
25 let's see. What was the next one? Okay.

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1 Cross-reference tables or files. So this is a larger
2 structure, but it contains that same type of
3 information. Vendor part No. 1 is equivalent to this
4 other vendor part No. 2.

5 And by equivalent, I mean identical or generally
6 equivalent.

7 And then by codes, this means that there is an
8 understood structure, understood by the computer and
9 perhaps by the human inputting these codes as to what
10 the codes mean. So in one case --

11 MR. McDONALD: Your Honor, I'm going to
12 object. I don't think his interpretation of codes is
13 in his report.

14 BY MR. ROBERTSON:

15 Q Doctor, did you do analysis of whether or not the
16 Lawson system employs codes for performing this
17 cross-referencing capability or this means for
18 converting data as the Court has construed the claim?

19 A Yes, it does.

20 Q What type of codes?

21 A That particular code is called a UNSPSC code,
22 United Nations Standard Products and Services Codes.

23 Q We're going to come back to that, but could you
24 just briefly explain to the jury what type of code
25 that is.

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1 THE COURT: Why don't you tell me where it is
2 here because that's what the objection is.

3 MR. McDONALD: He's talking about UNSPSC
4 codes, Your Honor. I will agree that's in there.

5 THE COURT: The objection is withdrawn.

6 MR. ROBERTSON: Thank you.

7 Q In examining this kind of cross-referencing or
8 converting capability, is it described in the patent?

9 A Yes.

10 Q Why don't we use the '683 patent, if we can, and
11 go to column 16. That's at tab 2 in the juror
12 notebook specifically at about lines 19 through 27.
13 What's the example being given here as how this
14 cross-referencing or converting process for finding
15 identical or generally equivalent items can be
16 accomplished?

17 A The general idea here is that a particular part
18 number has been entered into this electronic sourcing
19 system and that particular part number is not
20 available, but the cross-referencing system using the
21 cross-reference index finds that another vendor's part
22 number is the same or generally equivalent, and it
23 substitutes the second part number for the first.

24 Q Why don't we go to a different claim now, Claim 26
25 of the '683 patent. And I want to focus on this last

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1 element. This determining whether selected matching
2 items is available in inventory. Can you tell us how
3 the patent describes that process?

4 A When the customer service representative who is
5 using the system does a search for an item, one of the
6 functions that is supported here is inquiring about
7 what quantity of those items is available in the
8 inventory database. And so if you inquire and you get
9 back a quantity of zero or if you get back a quantity
10 that's less than the number you want, you know that
11 those items are not available in inventory.

12 Q You indicated there could be a CSR. That's a
13 customer service representative. Does it have to be
14 in the patent?

15 A No, that's just an example.

16 Q The claim itself doesn't recite whoever the user
17 is, does it?

18 A No.

19 Q I'd like to talk a little bit now about sort of a
20 general overview of the Lawson accused systems and
21 methods that you have examined as part of your
22 analysis. Would that be all right?

23 A Sure.

24 Q Do we have a demonstrative that you have prepared
25 as to what you consider the procurement system in the

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1 various modules to be?

2 A We do.

3 Q Now, this was prepared at your direction?

4 A Yes.

5 Q What are you intending to illustrate here, sir?

6 A I'm trying to show the various modules and
7 components that are in the Lawson system, and I've
8 tried to map them by color to the claims of the '683,
9 Claim 26.

10 Q By the way, Doctor, is your touch screen working?

11 A Yes.

12 Q So you might want to, if you need to, you can
13 utilize that capability.

14 A I can use my pointer.

15 Q All right. So I'm sorry. I interrupted you. You
16 have got a catalog database icon there. Do you see
17 that?

18 A Right here. So this is the set of catalogs in
19 electronic form.

20 Q Actually is that the user sitting at the computer?
21 Do you see the catalog database?

22 A Yes.

23 Q Where?

24 A You're talking about this one.

25 Q Yes, sir.

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1 A Yeah, okay. So the catalog database is the
2 electronic form of the catalogs all put together so
3 that they can be searched. That is the catalog
4 database.

5 Q Does the Lawson procurement system include a
6 database in its inventory control module?

7 A Yes, it does.

8 Q Can supplier product catalog be loaded into that
9 control module?

10 A Yes, we'll see that.

11 Q What's the selection icon?

12 A Of all the catalogs that are in the database, the
13 user interface provides a way to select one or more
14 that are going to be searched.

15 Q Now, you have all of these modules I see here
16 within a gray box. What are you trying to illustrate
17 there?

18 A The gray box is the Lawson system.

19 Q And these are the various components?

20 A These are components, modules.

21 Q There's an icon there for searching for matching
22 items. Do you see that?

23 A Yes.

24 Q What did you intend to illustrate there?

25 A Using the user interface, one engages a search

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1 program and gives it a search query or initiates a
2 search using a characteristic of a drop down menu.
3 And the search engine then engages and returns items
4 that match the query.

5 Q Did you examine a Lawson software program that
6 permits a user of a Lawson system to perform that
7 functionality?

8 A Yes, the requisitioning system does that.

9 Q You have building a requisition icon here. Do you
10 see that?

11 A Yes.

12 Q Please explain what you're intending to illustrate
13 there?

14 A So in the Lawson system you build a shopping cart,
15 then you add and delete items from it until you're
16 satisfied with it. And then you do a checkout from
17 the Lawson system. And that engages the requisition
18 system and builds the requisition of all the items
19 that you want to order.

20 Q Are you familiar with the term "a shopping cart"?

21 A Yes.

22 Q Is that consistent with your understanding of
23 building a requisition?

24 A Well, it's not the requisition. It's the data
25 structure that can be modified. You can add and

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1 delete to it. So in computer terminology, we call
2 this a cache, a C-A-C-H-E. So it's a data structure
3 that holds data, and then it's going to be transferred
4 to the requisition module, and it's in the requisition
5 module that the requisition is created.

6 Q All right. Thank you for that correction. So is
7 it consistent with an order list?

8 A The order list is the shopping cart and that's
9 what becomes the requisition.

10 Q Did the Court define what an order list is in its
11 glossary of claim terms?

12 A Yes. A list of desired catalog items.

13 Q Did you apply that construction in doing your
14 infringement analysis?

15 A Absolutely.

16 Q Next you have an icon for generating purchase
17 orders. Do you see that as part of the overview of
18 the Lawson procurement system?

19 A Yes.

20 Q Can you explain that process here?

21 A So we've got our requisition. This is our formal
22 list of the things we want to buy. It might have one
23 item. It might have a hundred items. The items might
24 be from one vendor or they might be from 100 vendors.
25 Whatever that requisition says, the purchase order

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1 module takes that requisition and typically pulls out
2 all of the requisition items that are going to be
3 ordered from a single vendor and creates a purchase
4 order for that vendor. Then it pulls all the items
5 that go to another vendor and creates a separate
6 purchase order for the second vendor and so on until
7 all the items in the requisition have appeared in some
8 purchase order.

9 Q Did you do analysis of any Lawson software program
10 or module that performs that functionality?

11 A Yes, we're going to see that, and it's going to be
12 the Lawson P.O. 100 program. Their purchase order
13 program that converts a requisition into one or more
14 purchase orders.

15 Q Now, you've illustrated a number of arrows between
16 these various software programs or modules that you've
17 identified as part of the overall Lawson infringing
18 system. What are you intending to indicate by those
19 arrows?

20 A Well, the arrows with the single head indicate
21 unit directional information flow. The arrows that
22 are double-headed indicate bidirectional data flow
23 back and forth.

24 So, for instance, the arrow here between selection
25 and searching, you use that user interface to engage

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1 the search engine. That's one-way data flow.

2 Down here, for instance, purchase orders go out to
3 the Internet, but responses come back. So there's
4 bidirectional data flow there.

5 Q You've got outside of the Lawson system you've got
6 this little cloud that you have illustrated that has
7 Internet in it. What are you attempting to illustrate
8 there?

9 A Well, the cloud is the classic icon for the
10 Internet, meaning lost of networks, lots of computers,
11 you don't necessarily know whether they are, you don't
12 usually care, but the computer can by sending
13 addresses through the Internet can arrive at a
14 particular destination. So here Bio-Rad is an example
15 of a vendor.

16 So by using this route I can send information to
17 the vendor. When the vendor gets that purchase order,
18 it can send a purchase order acknowledgment back to
19 the Lawson software.

20 Q Is there a software module or software program
21 that you did an analysis of that permits the Lawson
22 system, the accused system, to employ the Internet to
23 go out to vendors and obtain information, do searches,
24 and then return data to complete requisitions and
25 purchase orders?

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1 A Yes. There's a system called Punchout that we'll
2 see that allows us to access vendors. There's also an
3 electronic data interchange software module that
4 allows us to send purchase orders and get purchase
5 order responses.

6 Q You used the term "Punchout." Is that the term
7 that Lawson uses for its software module?

8 A Yes, this is their term.

9 Q Have you seen that term "Punchout" employed in
10 other procurement systems?

11 A Yes, it's a common term of art.

12 Q Now, what's your understanding as to what is meant
13 when they use the term "Punchout"?

14 A So there's the Lawson system. The user engages
15 the Lawson system and using the capabilities of the
16 Lawson system goes to a vendor website, one that's
17 been created for this customer. And so this idea of
18 looking at an external vendor's specialized website is
19 called punching out of the Lawson system.

20 Q Have you done a demonstration of that using a
21 Lawson system?

22 A Yes.

23 Q When this purchase order response comes back from
24 a supplier, what types of information can be in it
25 that might be useful to the user in making its

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1 selection and determination as to what it might want
2 to purchase?

3 A So when we use the Punchout capability, some of
4 these vendors support the capability of reporting
5 whether the item that you want is available in
6 inventory. And so we can see in what's called the
7 Punchout response, we see on a web page displayed in
8 the Lawson system whether or not the item is available
9 in inventory.

10 And if we're using the electronic data interchange
11 module, the purchase order goes to a vendor, and the
12 vendor can reply, and the purchase order responds as
13 to whether that item is available in inventory.

14 Q So you have this software module within the Lawson
15 system about determining availability and inventory.
16 Do you see that?

17 A Right here, yes.

18 Q I think you may have touched on it, but can you
19 tell us the ways in which this accused Lawson system
20 can satisfy the element of determining the
21 availability of inventory within its accused system?

22 A Yes. So using the Punchout system, I can look
23 into the external catalog of a vendor. And if this
24 vendor supports this capability, I can determine
25 whether the item I want to order is available in

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1 inventory. That's one way.

2 The other way is this purchase order being sent to
3 a vendor and the purchase order response coming back
4 there's two ways to do that.

5 Q Are you familiar with the term EDI?

6 A Electronic data interchange.

7 Q Can you explain to the jury what that is?

8 A So this was big in the 1970s and has gotten even
9 bigger today. When companies want to communicate with
10 each other -- well, let me start with individuals. If
11 you and I want to exchange information, a typical way
12 would be email. So email works for individuals, but
13 it isn't structured. You don't know what's going to
14 be in the email.

15 So electronic data interchange is a set of
16 standardized forms like purchase order, purchase order
17 response, invoice, advance ship notification. And
18 what is standardized about them is the information
19 that's in it is in a particular place and it's of a
20 particular length and it's of a particular type of
21 data so that a computer then doesn't have any problem
22 figuring out what it means.

23 So that's what EDI does. It exchanges information
24 in a structured formal way between companies.

25 Q You indicated that EDI has been available since

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1 the '70s, but the overall components of this system,
2 they haven't been available since the '70s, have they?

3 A I don't think so.

4 Q And you can take known technology and combine it
5 to come up with something new and useful; is that
6 right, Doctor?

7 A Sure.

8 Q The converting icon, I think you talked a little
9 bit about this, but in the Lawson system, how do they
10 perform this functionality of the conversion to find
11 similar, identical or generally equivalent items?

12 A I mentioned these UNSPSC codes. So I'll explain
13 later in detail what they mean, but the gist of it is
14 that by using an 8-digit code, you are drilling down
15 to what's going to be called the commodity level of
16 information. And if multiple items have this same
17 8-digit code, then by the definition of the code they
18 are generally equivalent and substitutable.

19 So the Lawson system uses this UNSPSC code in
20 order to accomplish that task.

21 Q So now that you have discussed sort of the overall
22 functionality of the system in general terms and how
23 it can perform it, you identified various software
24 programs or modules that Lawson offers to do that
25 functionality. Can they be configured in various

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1 ways?

2 A Yes. Certain modules are required and certain
3 modules are optional.

4 Q Did you prepare a demonstrative to show how these
5 various Lawson procurement S3 modules can be -- these
6 components can build to an infringing system?

7 A Yes, I have several demonstratives that build on
8 each other to illustrate how the software modules
9 build on each other.

10 Q Let's go to the first demonstrative you have. And
11 this one is entitled "Lawson's electronic sourcing
12 systems." And you have a yellow box there. What is
13 that?

14 A So as the name suggests, the platform technology
15 foundation contains the modules that have to be in a
16 functioning Lawson system.

17 Two of those are the Lawson system foundation,
18 which is, again, a set of common computer implemented
19 activities that every software module is going to
20 need. For instance, communication with other modules.

21 The process flow is a module that controls and
22 directs the approval process. So when a requisition
23 comes in, typically a manager approves it, and that
24 approval process is done by the process flow module.

25 So these two are required for all of the S3

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1 procurement systems.

2 Q In your analysis and review of the documents and
3 the deposition testimony, did you make a determination
4 that these foundational software modules were required
5 as part of the Lawson infringing system?

6 A Yes, in the documentation that I read it was very
7 clear that the Lawson system foundation, LSF, had to
8 be installed before you could install the modules of
9 the S3 procurement system. Likewise, the process flow
10 had to be there as well.

11 Q In your report, you called the Lawson system
12 foundation a prerequisite module. What did you mean
13 by that?

14 A The LSF must be there before you can load the
15 modules that are the procurement suite.

16 Q In order to purchase the procurement suite
17 license, the procurement suite, does a customer of
18 Lawson have to license this Lawson system foundation
19 and process flow?

20 A That's what the documentation says.

21 Q Well, I think you touched on the process flow
22 already, but let's take a look, if we can, at the
23 Lawson requisition self service installation guide,
24 which is PX 131. It's in binder 3, Dr. Weaver.

25 Is this document is entitled, "Lawson requisitions

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1 Self Service Installation Guide." Did you review this
2 as part of your preparation for your expert report?

3 A Yes, I did.

4 Q So what is this document?

5 A This document explains to the customer how they
6 should go about installing this requisition self
7 service module. We're going to call it the RSS.

8 Q If we could go to bar code 4. It's item 4 of this
9 document. There's a box entitled, "System
10 Requirements" there. Do you see that?

11 A I do.

12 Q Where is the information relevant to the Lawson
13 system foundation here?

14 A It says that the following software and hardware
15 requirements must be met before you install the
16 product. And then in the table below, the first row
17 says, "Lawson system foundation."

18 Q Okay. So before you can install Lawson's
19 requisition self service, one of the requirement
20 components is the Lawson system foundation; is that
21 right?

22 A That's what this says.

23 MR. McDONALD: Your Honor, I object. It's a
24 little unclear at this point because requisition self
25 service is a different module from the ones we were

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1 talking about earlier. So I would object as
2 ambiguous.

3 MR. ROBERTSON: It's one of the component
4 modules that Dr. Weaver has already mentioned. We can
5 go back and finish building the blocks if you'd like.

6 Q Let's go back to your building components, if we
7 could. Then we can circle back.

8 So you have got your platform technology here of
9 the Lawson system foundation and the process flow.
10 What is the next software module or program that you
11 need in order to have an infringing system?

12 A The procurement modules that are needed for an
13 infringing system include purchase order, requisitions
14 and inventory control. These are the three that we
15 just saw in the previous documents. And for
16 clarification, the requisition self service is going
17 to sit on top of this.

18 Q But at this point, let's go back, at this point
19 with this platform and these three modules, does that
20 comprise an infringing system?

21 A Yes, it does.

22 Q And you're going to discuss in detail the purchase
23 order module, the requisitions module, and the
24 inventory control module in the context of Lawson's
25 documents and witness testimony?

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1 A Yes, I am.

2 Q Well, let's go to the next build then. So the
3 next thing you placed on top of this platform here
4 we're building is this module or software program
5 called "requisition self service." Do you see that?

6 A I do.

7 Q Why did you do that? Why did you make the
8 arrangement like this?

9 A Because the requisition self service is a module
10 that is modern and user friendly. So it has a web
11 based interface. But it uses the functionality of the
12 requisition module below it.

13 So requisition self service can be installed only
14 if you already have the requisition module beneath it.
15 So you can think of, in software terms, the
16 requisition module provides a certain set of
17 capabilities and functionalities, and requisition self
18 service is a user friendly overlay on top of that.

19 Q Does it permit more end users to utilize the --

20 A Yes. By user friendly, this means that you don't
21 need as much training. You don't need to be as much
22 of a specialist. It's more for the guy on the street.

23 Q Does the requisition self service permit Lawson to
24 distribute the functionality for this electronic
25 sourcing and procurement to a greater number of

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1 individuals within a company, for example?

2 A Yes, it does.

3 Q Do you know whether or not Lawson when it licenses
4 this requisition self service module, licenses it on
5 the basis of the number of potential users of that
6 software module?

7 A Yes.

8 Q Do they?

9 A Yes.

10 Q Just so I'm clear, the requisition self service
11 module can't work without the requisition module that
12 sits upon the Lawson system foundation and process
13 flow flat on technology foundation. Is that what
14 you're indicating?

15 A Yes, that's correct.

16 Q Is there another module that you did an analysis
17 of?

18 A Yes. So there's a Punchout module, which I kind
19 of indicated for. It sits on top of requisition self
20 service.

21 Q Are we going to see some documentation and have
22 you reviewed some testimony in which the purchase
23 order requisitions and inventory control modules that
24 are all the S3 procuring modules require the Lawson
25 system foundation?

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1 A Yes.

2 Q Do they?

3 A They do.

4 Q So just going back then to Plaintiff's Exhibit

5 No. 131, which was the --

6 THE COURT: Go back to the other one just a
7 minute.

8 Are you saying that you can't use the
9 procurement Punchout without also using the RSS, the
10 S3, and the foundation?

11 THE WITNESS: Yes, Your Honor.

12 THE COURT: All right. Go ahead.

13 MR. ROBERTSON: I was going to come to that,
14 Your Honor, but thank you.

15 BY MR. ROBERTSON:

16 Q Let's go back to that for a second since the Court
17 has raised the question.

18 So if I'm going to have procurement Punchout, that
19 capability to go out over the Internet and go to
20 individual vendors for specially created Lawson vendor
21 website in order to do my shopping, I must have
22 licensed requisition self service, the three S3
23 procurement modules, and the platform technology
24 foundation including Lawson's system foundation and
25 process flow; is that right?

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1 A That's correct.

2 Q Is that reflected in the documents and the
3 testimony that you have seen?

4 A Yes, it is.

5 Q And just so we're clear, procurement Punchout
6 sitting alone, can it perform the functionality of
7 going out over the Internet to individual vendors in
8 order to do this shopping function?

9 A No.

10 Q Requisition self service sitting alone without the
11 S3 procurement modules and the platform technology,
12 can it perform any of the functionality that's
13 described in the patents?

14 A No.

15 Q Let me just be clear then. So Punchout
16 procurement alone in your opinion doesn't infringe any
17 of the claims of the patent?

18 A Not by itself.

19 Q Well, requisition self service alone doesn't
20 infringe any of the claims of the patent?

21 A Correct.

22 Q If we could go back to just the yellow and blue.
23 In this configuration, are you going to have opinions
24 with respect to whether or not the functionality
25 provided by the software here, the capability of the

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1 software infringes the claims of the patent?

2 A I'm going to have an opinion on that.

3 Q Why don't you just preview that opinion?

4 A And my opinion is that this is an instance of an
5 infringing system.

6 Q Let's add the next module. Is this going to be
7 also instances of infringing activity under the claims
8 at issue here?

9 A Yes, it is.

10 Q Let's add the next module. Is this also going to
11 be instances of infringing activity under the claims
12 that are at issue here?

13 A Yes.

14 Q Let's add the next module. Here's a module that
15 sits on these S3 procurement modules called the
16 electronic data interchange. You talked a little bit
17 about that. Is that a module that Lawson offers as
18 part of its infringing system?

19 A Yes, it is.

20 Q And that is sitting on top of your S3 procurement
21 modules and your platform technology modules. Do you
22 see that?

23 A That's right.

24 Q With just the electronic data interchange and the
25 S3 procurement modules and the platform technology

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1 foundation, can that be an instance of infringing
2 activity under the asserted claims?

3 A Yes, it can.

4 Q Again, just to be clear, though, because this can
5 be a little confusing. I don't need all of these
6 modules in order to infringe the claims, do I?

7 A You do not.

8 THE COURT: Are you at a transition point?

9 MR. ROBERTSON: This would be a good time to
10 break, Your Honor.

11 THE COURT: All right, ladies and gentlemen.
12 We'll have the morning recess for about 20 minutes.
13 And, if you will, just take your notepads with you.
14 That will be fine.

15 (The jury is out.)

16 All right. We'll be in recess for 20
17 minutes.

18 (Brief recess taken.)

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